

**Wittels  
McInturff  
Palikovic**

January 11, 2024

**Via ECF**

The Honorable Joseph A. Marutollo  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Mirkin, et al. v. XOOM Energy, LLC, et al.*, No. 18 Civ. 2949 (ARR) (JAM)

Dear Judge Marutollo:

The parties write jointly to request that the Court briefly adjourn any deadline for submitting the pretrial order pending their conferral and forthcoming proposed schedule to include a pretrial order deadline. The parties intend to submit a proposed schedule to Your Honor by Friday, January 19, 2024.

By way of brief background, notice to over 100,000 XOOM customers began on December 14, 2023, and under Judge Reyes's Notice Order, ECF 160, potential Class Members have until February 12, 2024 to opt-out of the Class. Plaintiff takes the position that under Judge Reyes's October 2022 scheduling order, the current deadline for the pretrial order is January 16, 2024, which does not allow sufficient time for the Class notice process to run its course. Defendants' position is that no pretrial order deadline exists because the case is not yet proceeding to trial, as no trial date has been set and substantive motion practice remains outstanding. Their differing positions on current deadlines notwithstanding, the parties agree that a schedule should be set and that additional time is required to prepare the pretrial order. Judge Ross's Individual Rule IV.A requires the parties to address multiple issues that will require substantial court and party resources, including fully briefed motions in limine and Your Honor's oversight and resolution of any disputes regarding the pretrial order.

The parties plan to meet and confer next week to discuss a proposed schedule and how they will work to accomplish the matters that need to be addressed under Judge Ross's Individual Rule IV.A by their proposed deadline. Thus, the parties respectfully request that any current deadline for a pretrial order be vacated pending their proposed schedule to be submitted by Friday, January 19, 2024.

Pursuant to Your Honor's Individual Rule IV, Plaintiffs contend that the original deadline for the joint pretrial order is January 16, 2024 and the new deadline will be proposed in the parties' forthcoming submission. This is the first request to extend this deadline. All parties consent to this request and no other scheduled dates are affected.

The Honorable Joseph A. Marutollo

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Thank you for the Court's consideration of this request.

Respectfully submitted,

/s/ Ethan D. Roman

Ethan D. Roman

cc: All counsel of record (via ECF)